

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: Edward D. McManus

Petition No. 990726-033-008

**CONSENT ORDER**

WHEREAS, Edward D. McManus, of Derby, Connecticut (hereinafter "respondent") has been issued license number 002153 to practice as a subsurface sewage disposal system installer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 393a of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. In or about March 1997, respondent was the licensed subsurface sewage system installer at 18 Great Hill Road, Seymour, CT (hereinafter "the residence").
2. In or about March 1997, respondent failed to supervise the work of his son Edward G. McManus (hereinafter "the unlicensed worker") who caused the following illegal conditions while repairing the subsurface sewage system at the residence (hereinafter "the system"):
  - a. the installation of a pump inside the septic tank which caused the tank to drain following each pump cycle and caused the minimum liquid capacity of the septic tank to be inadequate; and
  - b. the pumping of the septic tank sludge to the leaching galleries.
3. In or about the Spring of 1999, respondent again failed to supervise the unlicensed worker while attempting a second repair of the subject system. The unlicensed worker removed

the pump he previously installed inside the septic tank and installed a pump chamber that was undersized and in violation of Connecticut's Regulations and Technical Standards for Subsurface Disposal Systems.

4. He has not returned to the residence to pump out the row of galleries to remove the solid waste sediment caused by the original improper installation of the pump during the repair performed on the system in or about March 1997.
5. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §§20-341f(a), 20-341f(d)(2) and/or 20-341f(d)(3), taken in conjunction with the Regulations, Connecticut State Agencies §§19-13-B103d(a)(1), 19-13-B103d(b), 19-13-B103e(f)(2), and Technical Standards V(B)(1) and VI(A).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-341f(d)(2) and/or (3) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-341f(d)(2) and/or (3) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license number 002153 to practice as a subsurface sewage disposal system installer in the State of Connecticut is hereby reprimanded.
3. Respondent shall repair the system in accordance with the following conditions:
  - a. Respondent shall, at his own expense, replace the undersized pump chamber with a

new pump chamber that complies with Technical Standard V(B)(1) of the Regulations, Connecticut State Agencies;

- b. Respondent shall, at his own cost and expense, pump out the row of galleries to remove all solid waste sediment deposited by the original improper installation of the pump;
  - c. The repairs to the system shall be performed in accordance with all applicable state and federal regulations, including, but not limited to, the permit and approval requirements of §19-13-B103e of the Regulations, Connecticut State Agencies;
  - d. Respondent shall obtain the written approval to construct from the local Director of Health or his/her agent for the repairs to the system and provide a copy of such approval to the Department not less than one (1) week from the date of receipt of the written approval to construct;
  - e. Respondent shall obtain the written permit to discharge from the local Director of Health or his/her agent upon completion of the repairs to the system and provide a copy of such permit to the Department not less than one (1) week from the date of receipt of the permit to discharge; and
  - f. Respondent agrees that the repair of the system shall be completed on or before November 30, 1999, subject to cooperation of the current homeowner and/or the current occupants of the residence.
4. All correspondence and reports are to be addressed to:

Art Castellazzo, Sanitary Engineer III  
Department of Public Health  
410 Capitol Avenue, MS#51SEW  
P.O. Box 340308  
Hartford, CT 06134-0308

5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted;
  - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order;
  - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question;
  - d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken; and
  - e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

8. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
10. This Consent Order is effective on the date this Consent Order is accepted and ordered by the Department.
11. Respondent understands this Consent Order may be considered as a public document and evidence of the above admitted violations in any proceeding before the Department in which his compliance with this Consent Order or with §20-341f of the General Statutes of Connecticut, as amended, is at issue.
12. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
13. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
14. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

15. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
16. Respondent has the right to consult with an attorney prior to signing this document.

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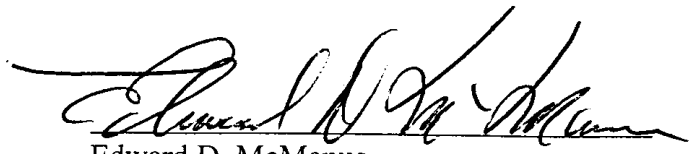
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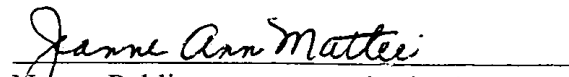
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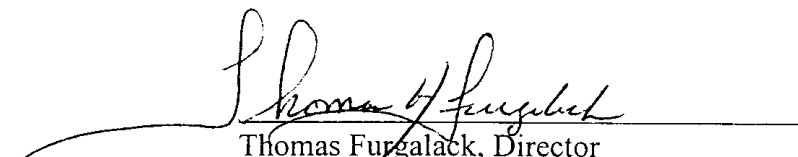
I, Edward D. McManus, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

  
Edward D. McManus

Subscribed and sworn to before me this 5 day of Nov. 1999.

  
Notary Public or person authorized  
by law to administer an oath or affirmation  
*Comm exp 2/28/00*

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 9<sup>th</sup> day of November 1999, it is hereby accepted.

  
Thomas Furgalack, Director  
Division of Environmental Health